**IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**

**SPECIAL CIVIL APPLICATION No. 16866 of 2007**

**For Approval and Signature:**

**HONOURABLE MR.JUSTICE DN PATEL**

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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**GANGABEN BHAGWANDAS KATEJA & 1 - Petitioner(s)**
**Versus**
**VINODBHAI MANUBHAI PATEL & 2 - Respondent(s)**

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**Appearance :**
MR MTM HAKIM for Petitioner(s) : 1 - 2.
NOTICE SERVED BY DS for Respondent(s) : 1 - 3.

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**CORAM : HONOURABLE MR.JUSTICE DN PATEL**

**Date : 21/09/2007**

**ORAL JUDGMENT**

1.0 Present petition has been preferred by

the beneficiaries of the order passed by the learned Presiding Officer, Fast Track Court No.9, Vadodara dated 22nd June, 2007 in Motor Accident Claims Petition No.596 of 1999. By the aforesaid order, the trial Court passed the apportionment and disbursement of the awarded amount of Rs.15,00,000/- with interest, and the same comes to Rs.23,52,630/-. The trial Court ordered the apportionment and disbursement of the amount as under,

"Rs.23,52,630.00: Amount of compensation deposited by the opponent no.3-Insurance Co., by way of compensation.

Rs.25,980.00 :- Be deducted as deficit Court fee stamp.

OUT OF WHICH :-
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Rs.08,14,500.00: Each be invested in fixed deposit in the name of applicant no. 2 Kinnariben Jayantibhai Kateja and applicant no.4 namely Gangaben Bhagwandas Kateja with any Nationalised Bank situated near their residence, for a period of five (5) years.

The aforesaid Fixed Deposit shall be made subject to the

usual conditions that no loan, advance or other credit facility shall be granted to the applicants against the said Fixed Deposits.

The bank authority is hereby directed not to grant or raise any loan or advance against the said FDR without prior permission of this Tribunal.

However, the applicants are permitted to received periodical interest accrued on the said F.D.R..

Rs.03,48,825.00: EACH be paid to the Applicant no.2 namely Kinnariben Jayantibhai Kateja and applicant no.4 Gangaben Bhagwandas Kateja by an account payee cheque on proper verification and identification.”

2.0 The petitioners are present before this Court. Though, served none appears on behalf of respondents. Learned Counsel for the petitioners has submitted that petitioner No.1 is the grandmother of petitioner No.2 and mother of the deceased whereas Petitioner No.2 is daughter of the deceased and the grand-daughter of petitioner No.1. Learned Counsel for the petitioners has

further submitted that the petitioner Nos. 1 and 2 were apportioned the aforesaid amount by the learned Presiding Officer, Fast Track Court No.9, Vadodara but, since petitioner No.1 is desirous to accept only 1/3rd of the amount so awarded, the balance 2/3rd of the said amount be given to the daughter of the deceased and grand-daughter of petitioner No.1, i.e. petitioner No.2, herein.

3.0 This Court has called petitioner Nos. 1 and 2 before the Court and has put a question as to whether petitioner No.1 i.e. the grandmother of petitioner No.2, voluntarily desires to give up / relinquish her right, as stated hereinabove, in favour of petitioner No.2. In response to that, petitioner no. 1 gave her consent to the same. Learned Counsel for the petitioners has produced the calculation which may be apportioned and awarded by this Court, instead of aforesaid apportionment and the same is taken on record.

4.0 In view of the aforesaid submissions and

re-shuffling of the apportionment of amount, I, hereby, pass following order for apportionment of the amount of compensation to the present petitioners, which is as under;

| **DISBURSEMENT OF AMOUNT** | | |
|---|---|---|
| 1. | Total amount deposited before the trial Court: | Rs.23,52,630.00 |
| 2. | Amount of Court Fees deducted: | Rs.25,980.00 |
| 3. | Amount to be apportioned: | Rs.23,26,650.00 |
| • Amount apportioned as per the order of the learned Tribunal in equal share | | |
| Grandmother(Gangaben- Petitioner .No.1) | | Rs.11,63,325.00 |
| Daughter (Kinnariben- Petitioner No.2) | | Rs.11,63,325.00 |
| • Amount apportioned as per prayer in the present petition i.e. 1/3rd and 2/3rd to the petitioners: | | |
| Grandmother(Gangaben- Petitioner .No.1) | | **Rs.7,75,550.00** |
| Daughter (Kinnariben- Petitioner No.2) | | **Rs.15,51,100.00** |

| **DISBURSEMENT OF AMOUNT** | |
|---|---|
| Out of Rs.7,75,550/- apportioned to Gangaben-Petitioner No.1 | **Rs.2,32,665/-** be paid by A/c. Payee cheque on proper verification and identification |
| | Remaining **Rs.5,42,885**/- be invested in fixed deposites in any nationalized bank situated near her residence for a period of **FIVE YEARS**. |
| Out of Rs.15,51,100/- apportioned to Kinnariben-Petitioner No.2 | **Rs.4,65,330/-** be paid by A/c. Payee cheque on proper verification and identification |
| | Remaining **Rs.10,85,770**/- be invested in fixed deposits in any nationalized bank situated near her residence for a period of **FIVE YEARS**. |

5.0 In view of the aforesaid apportionment and disbursement, amount is reshuffled. This

Court modifies the apportionment and disbursement of the amount to the aforesaid extent only. Rule is made absolute to the aforesaid extent. Direct service is permitted.

(D.N. Patel,J.)

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